

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0530**

**Adjusted Gross Income Tax**

**Calendar Years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

I. **Tax Administration** – Books and Records

**Authority:** IC 6-8.1-5-4

Taxpayer protests the assessments that were based upon best information available.

**STATEMENT OF FACTS**

Taxpayer, incorporated under the laws of Indiana in 1985, is a pizza restaurant. An audit was completed on July 6, 1999 based upon industry averages taken from Dun & Bradstreet's *Industry Norms & Key Business Ratios*, Desk-Top Edition 1998-1999. The industry averages show the net profit after tax. The adjusted gross income is not given. Adjusted gross income includes taxes. Using the data available, audit added the tax back into the net profit to arrive at the industry average adjusted gross income. The Internal Revenue Service supplied the federal tax rates via telephone. State rates were taken from the IT-20SC tax forms. Taxpayer previously filed as a regular corporation. The auditor determined, based upon criteria set forth by the Indiana Regulations for Special Corporations, that the taxpayer qualifies.

Indiana Code 6-8.1-4-2(a)(6) allows Audit to utilize projections and estimates in the absence of actual data. At this date, no additional data has been provided to the hearing officer.

At hearing, taxpayer provided photographs of his burned building and a newspaper article for verification. Taxpayer has not provided additional evidence that the proposed assessment is in error.

I. **Tax Administration** – Books and Records

### **DISCUSSION**

At issue is whether the taxpayer's best information audit should be adjusted.

At hearing, taxpayer stated it had a fire in December 2000 and was not fully covered with insurance. Further, the assessment is too high. Menu prices indicate prices from \$.50 to \$5.95 but the Department has no show for the volume of business. Taxpayer states that he would try to get additional information. At the date of this writing, no further information has been provided.

### **FINDING**

Taxpayer's protest is denied.